

ORIGINAL

FILED

January 6 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 09-0354

STATE OF MONTANA,

Plaintiff and Appellee,

v.

DANNY SARTAIN,

Defendant and Appellant.

FILED

JAN 06 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA


**MOTION FOR EXTENSION OF TIME
AND AFFIDAVIT IN SUPPORT**

COMES NOW, Nancy G. Schwartz, counsel of record for Defendant and Appellant, and respectfully requests an extension of time until February 5, 2010, in which to prepare, file and serve Appellant's opening brief in the above-entitled matter. In support of this motion, undersigned counsel respectfully submits the following affidavit.

Respectfully submitted this 4th day of January, 2009.

N.G. SCHWARTZ LAW, PLLC
303 North Broadway, Ste. 600
Billings, MT 59101

By:


Nancy G. Schwartz
Attorney for Defendant/Appellant

STATE OF MONTANA)
 : ss
County of Yellowstone)

I, Nancy G. Schwartz, being first duly sworn upon my oath, depose
and state as follows:

1. I am a licensed, practicing attorney in the State of Montana, and
am assigned cases as contract counsel by the Office of the State Public
Defender, Appellate Defender Office.

2. In this capacity, I was assigned to represent the Appellant in the
above-entitled matter and a Notice of Appearance was filed on my behalf on
October 1, 2009.

3. The issues presented on appeal in Mr. Sartain's case are complex.
Mr. Sartain was convicted following a two day jury trial, and Mr. Sartain has
provided the undersigned and his previous counsel with numerous issues to
research and consider prior to filing an opening brief.

4. This is my third request for extension. Prior to my appointment to
represent Mr. Sartain, appellant's counsel requested and was granted at least
two prior extensions. The brief is presently due on January 5, 2010.

5. I cannot meet the present deadline for filing Appellant's opening
brief. Additional time is necessary to properly research and brief the issues

presented. I am also currently working to complete the opening brief in No. DA 09-0252, which is also a case of complex nature.

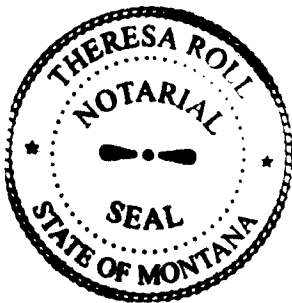
6. Mr. Sartain is presently incarcerated following his conviction in this matter.

7. I will continue to work diligently to complete the opening brief within the time requested.

8. Opposing counsel has been contacted concerning this motion and does not object.

9. Further your affiant sayeth naught.

SUBSCRIBED AND SWORN to before me this 4th day of January, 2010.



Theresa Roll

THERESA ROLL

Notary Public for the State of Montana
Residing at Billings, MT

My commission expires: April 19, 2012

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing
Motion for Extension of Time and Affidavit in Support to be mailed to:

STEVE BULLOCK
Montana Attorney General
MARK MATTIOLI
Assistant Attorney General
P.O. Box 59620-1401
Helena, MT 59620

MARTY LAMBERT
GALLATIN COUNTY ATTORNEY
1709 W. COLLEGE
BOZEMAN, MT 59715

DANNY SARTAIN 2009296
MONTANA STATE PRISON
700 CONLEY LAKE
DEER LODGE, MT 59722

Dated: Jan 4 2010

